

August 7, 2002

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
Portals II, TW-A325
445 Twelfth Street, SW
Washington, D.C. 20554

Re: Ex-Parte Recommendation on Universal Service Contribution Mechanism from
State Joint Board Members

Dear Chairman Powell:

The State Members of the Federal-State Universal Service Joint Board (Joint Board) appreciate the opportunity to offer our recommendations to the FCC regarding changes to the Universal Service Contribution mechanism. This letter is the result of our participation in the June 21, 2002, public meeting with the Federal Joint Board members, and the subsequent deliberations of the state members. This letter sets out several agreed-upon principles; offers a modified customer connection proposal that four of the state Joint Board members support; describes an alternative supported by one member; and suggests that an alternative dispute resolution approach be employed during the implementation process. More detailed descriptions of each of the alternative contribution methodologies is contained in an attachment to this letter.

A. Background and Principles

Our goal was to explore ways of ensuring that the universal service contribution methodology remains consistent with the requirements of the Communications Act of 1934, as amended, as the telecommunications marketplace continues to evolve. At the meeting, panelists representing a broad range of interests presented their views and proposals regarding reform of the contribution methodology. The first panel addressed the relative merits of the proposed assessment methodologies submitted in the record. The second panel discussed issues regarding the recovery of contributions from consumers. We later had the opportunity to discuss the administrative implications of the alternative proposals with staff from the Universal Service Administrative Company (USAC). After weighing the merits of the various proposals, the State members of the Joint Board have developed a consensus on the principles that should guide resolution of this issue.

The state members of the Joint Board believe that any mechanism to address the contribution methodology should be based upon the following guiding principles.

- Rate increases to end users should be minimized;
- Revisions to the contribution mechanism should yield stability and long-term sustainability;
- Contributions should be collected from as broad a base of contributors as feasible;
- The mechanism should have the ability to accommodate reasonable growth in the size of the fund;
- USAC should be allowed sufficient time to implement any necessary systems changes; and
- The contribution mechanism should be competitively neutral.

We recognize that timing is important to the implementation of any changes. We understand that recent trends in the fund may require an increase in the contribution percentage if the contribution mechanism is not modified early in 2003. We have consulted with USAC, and appreciate the complexities of implementing any changes. While we do not doubt that USAC is willing to do whatever is necessary to implement the FCC's decision, we believe that allowing USAC sufficient time to design and test the systems and software necessary to implement any changes is essential to the success of this transition. We also recommend that during the transition period, a process be established to enable USAC to work out the details of implementation to ensure a smooth transition. This process should include the participation of representatives from industry, the FCC, USAC, and the Joint Board.

We recommend that any changes be effective July 1, 2003. Provided the FCC is able to issue its decision by the end of 2002, this would allow six months for the transition process. We believe that this is the minimum time required to effect a smooth change in the contribution mechanism. Inviting participation by industry should allow the process to be designed to minimize disruptions to industry and USAC.

B. Customer Connection-Based Approach

Four of the state members of the Joint Board¹ recommend that the contribution mechanism be changed to collect contributions by customer connection to public networks. The contribution amount would vary based on the customer class and capacity. Our recommendation is a modified version of the proposal presented at the public meeting by the Coalition for Sustainable Universal Service (COSUS). This approach is favored because of its simplicity, and its ability to accommodate changes to the telecommunications markets. The following points illustrate the Customer Connection-Based Approach, based on initial contribution amounts:

¹ Commissioners Thompson, Jaber, and Dunleavy and Consumer Advocate Gregg support this approach.

1. The per-line assessment would apply to connections² to public networks from each platform, and would potentially include DSL, cable modems, satellite, and private line service.³
2. The \$1 per-line, per-month charge on residential, single-line business, and wireless (single-lines), would stay in effect for 5 years. Multi-line business would pick up the residual, and would get the benefit of line growth during the 5-year period.
3. At the end of 5 years, any changes in the charge would be recovered proportionately from the different charges on pagers, single-lines and multi-lines.
4. The charge would be recovered on a collect-and-remit basis with no mark-up allowed.
5. The charge would be placed on customers' bills as a line item and uniformly labeled as "Federal Universal Service Fee."
6. The effective date of the change in the assessment and recovery system would be July 1, 2003. The FCC should issue an order adopting the proposal immediately in order to give carriers and USAC as much time as possible to prepare for the new system.

C. Assessment on All Interstate Providers Approach

One state member of the Joint Board⁴ prefers an alternative that attempts to assess all providers of interstate services by using a combination of methods: connections, bandwidth, and terminating interstate minutes of use. This alternative has been proposed because of a concern that a connection-based approach will become embroiled in litigation since it does not assess all interstate providers. While the rest of the Joint Board members recognize the value of this proposal, we are concerned about the complexity of implementing it.

The residual element of the alternative proposal is assessment of an amount on terminating interstate interexchange minutes of use (MOU). Terminating MOUs are relatively stable, are traceable, and reach most wholesale traffic with minimum opportunities or incentives for uneconomic bypass. Terminating MOU appear to provide an assessment basis no more administratively complex than others that have been suggested.

² While Commissioner Jaber supports the recommended customer connection-based approach outlined in this section, she expressed reservation about any contribution proposal that would no longer assess IXC's based on their provision of switched interexchange services. Her concern is based on a belief that Section 254(d) requires all providers of interstate telecommunications services, including IXC's, to contribute to the universal service. She proposed a modification to a connections-based approach that would continue to assess IXC's, based on their provision of interexchange service. This proposal has been labeled the "IXC Account Approach." A majority did not support this modification because of the belief that it imperfectly assesses IXC contributions. Because only presubscribed traffic would be assessed, a possibly increasing amount of traffic carried would not be included. A complete description of the IXC Account Approach is contained in the attachment.

³ Because the Commission is currently considering the proper classification of broadband services, we do not believe it is appropriate to expand universal service contribution responsibility to broadband providers at this time. (See NPRM issued in FCC Docket No. 02-33, Appropriate Framework for Broadband Access to the Internet over Wireline Services, released February 15, 2002). If the Commission determines that broadband services have a telecommunications component, the Commission should extend contribution responsibility to all broadband providers. As the telecommunications industry evolves, the distinction between information services and telecommunications services has become more of a regulatory fiction than a market reality. We believe that collecting contributions from all providers of communications services to customers is essential to the long-term viability of the universal service fund.

⁴ Commissioner Rowe supports further consideration of this approach. His primary objective, however, is that all parties who have proffered substantive proposals participate in an expedited alternative dispute resolution (ADR) process.

The alternative proposal recommends additional elements, primarily to achieve a more diverse, sustainable base of support. However, each element requires thoughtful review. One element is use of terminating minutes. The alternative proposal suggests:

1. The portion of the schools and libraries funding used to provide broadband services to schools and libraries should be recovered from broadband end users including cable modems, broadband private lines, and broadband special access with a flat "line" charge related to bandwidth.⁵
2. The next portion of the universal service fund recovery amount is recovered from all carriers including wireless and CLECs, through a "connections" charge. That charge will be \$.50 per line for residential and single-line business wireline customers, \$.50 per telephone number for single number wireless customers, and \$2.00 per-line for multiple line business customers and multiple number wireless customers. This rounds the charge currently imposed.
3. The remainder of the universal service fund recovery amount will be recovered from providers of interstate interexchange services through a per-minute charge assessed on the terminating interstate access minutes billed to that carrier. For interstate traffic where a carrier does not pay terminating access, it will pay a per-minute charge on its minutes of use of that traffic.
4. Collect-and-remit principles will apply to all charges. That is, carriers will not be permitted to surcharge their customers any more than they remit to USAC.

D. Alternative Dispute Resolution to Narrow Differences

We believe that some of the significant challenges to implementing this proposed change could be best addressed by alternative dispute resolution. We encourage the FCC to establish such a forum with its order that will operate during the transition to a new contribution mechanism.

We hope that our recommendation is helpful to the Commission in making a decision on this important issue. We appreciate the opportunity to participate in the decision in this manner.

Very truly yours,

G. Nanette Thompson, State Chair
On Behalf of the State Joint Board Members

⁵ This approach, "for consideration," attempts to broaden the base of support, while matching to a greater extent eligibility for and payment into the fund. It would clearly require careful review before going forward.

SUMMARY AND COMPARISON OF PROPOSALS

1. Customer Connection-Based Approach

This proposal recommends that the FCC accept the COSUS proposal with the following modifications:

1. The per-line assessment would apply to all connections to public networks from each platform, including potentially DSL, cable modems, satellite, and private line service.⁶
2. The \$1 per-line, per-month charge on residential, single-line business, and wireless (single-lines), would stay in effect for 5 years. Multi-line business would pick up the residual, and would get the benefit of line growth during the 5-year period.
3. At the end of 5 years, any changes in the charge would be recovered proportionately from the different charges on pagers, single-lines and multi-lines.
4. The charge would be recovered on a collect-and-remit basis with no mark-up allowed.
5. The charge would be placed on customers' bills as a line item and uniformly labeled as "Federal Universal Service Fee."
6. The effective date of the change in the assessment and recovery system would be July 1, 2003. The FCC should issue an order adopting the proposal immediately in order to give carriers and USAC as much time as possible to prepare for the new system.

Summary of Customer Connection-Based Approach*

	Lines (000)	Per-line USF	Annual Revenue (000)	Who Contributes	Current	Customer Connection
Residential Lines	126,894	\$ 1.00	\$ 1,522,728	IXCs	63%	19%
Single Line Business	4,347	\$ 1.00	\$ 52,164	LECs	23%	53%
Wireless	118,398	\$ 1.00	\$ 1,420,776	Wireless	14%	26%
Pagers	35,220	\$ 0.25	\$ 105,660	Pagers	0%	2%
Multi-Line Business	56,269	**	Residual	Broadband	0%	****
IXCs***		Capacity Based	\$1,044,694			
Broadband Providers	?	****	****			
TOTAL			\$4,146,022			
(difference)			(\$1,352,366)			

* The data shown above are illustrative, and amounts are estimated.

** Effective assessment rate varies based on residual to be collected.

*** To the extent IXC's provide private line service.

**** Depends upon the FCC's conclusion regarding the universal service obligation of broadband providers (FCC 02-42).

Contributors

	Current	Customer Connection
Local		
LEC	Yes	Yes
Cable	Yes	Yes
IXC	Yes	Yes*
CMRS	Yes	Yes
Pagers	No	Yes
Broadband		
Cable Modem	No	**
XDSL	Yes	**
Satellite	No	**

* Private lines only.

** Depends upon the FCC's conclusion regarding the universal service obligation of broadband providers (FCC 02-42).

⁶ Because the Commission is currently considering the proper classification of broadband services, the members supporting this approach do not recommend expanding universal service responsibility to all broadband providers at this time.

1A. IXC Account Approach

This proposal is a variation on the Customer Connection-Based Approach and includes contributions from IXC's based on their provision of switched interstate services.⁷ Residential and single-line business accounts of customers presubscribed to IXC's are treated and reported as connections. The result is lower monthly fees on local connections, but continuing assessments on long distance bills. Major points of this alternative are as follows:

1. IXC would collect-and-remit based on presubscribed customer accounts as a surrogate for connections. (This is in addition to assessments associated with IXC private lines.) The amount IXCs remit would be used to offset/reduce the other categories of connections.
2. The per-line/account charge on residence, single-line business, IXC and wireless (single-lines), would stay in effect for 5 years. Multi-line business would pick up the residual, and would get the benefit of line growth during the 5-year period.⁸
3. At the end of 5 years any changes in the charge would be recovered proportionately from the different charges on pagers, single-lines and multi-lines.
4. The charge would be recovered on a collect-and-remit basis with no mark-up allowed.
5. The charge would be placed on customers' bills as a line item and uniformly labeled as "Federal Universal Service Fee."
6. The effective date of the change in the assessment and recovery system would be July 1, 2003. The FCC should issue an order adopting the proposal immediately in order to give carriers and USAC as much time as possible to prepare for the new system.

Summary of IXC Account Approach*

	Lines (000)	Per-line USF	Annual Revenue (000)	Who Contributes	Current	IXC Account
Residential Lines	126,894	\$.75	\$ 1,142,046	IXCs***	63%	28%
Single Line Business	4,347	\$.75	\$ 39,123	LECs	23%	44%
Wireless	118,398	\$ 1.00	\$ 1,420,776	Wireless	14%	26%
Pagers	35,220	\$ 0.25	\$ 105,660	Pagers	0%	2%
Multi-Line Business	56,269	\$ 3.40	\$ 2,295,775	Broadband	0%	****
IXCs**	87,316	\$.50	\$ 523,897			
Broadband Providers	?	****				
TOTAL			\$ 5,527,277			
(difference)			+ \$28,890			

* The data shown above are illustrative, and amounts are estimated.

** Does not include private lines; the number of presubscribed accounts were estimated.

*** Includes private lines.

**** Depends upon the FCC's conclusion regarding the universal service obligation of broadband providers (FCC 02-42).

Contributors

	Current	IXC Account
Local		
LEC	Yes	Yes
Cable	Yes	Yes
IXC	Yes	Yes
CMRS	Yes	Yes
Pagers	No	Yes
Broadband		
Cable Modem	No	*
xDSL	Yes	*
Satellite	No	*

* Depends upon the FCC's conclusion regarding the universal service obligation of broadband providers (FCC 02-42).

⁷ This variation could also be incorporated in other proposals.

⁸ Because the Commission is currently considering the proper classification of broadband services, this approach does not recommend expanding universal service responsibility to all broadband providers at this time.

2. Assessment on All Interstate Providers Approach

This proposal attempts to assess all providers of interstate services by using a combination of methods: connections, bandwidth, and terminating interstate minutes of use. The result is a distribution of USF responsibility among industry groups that is equitable and provides room for growth. Major points of this alternative are as follows:

1. The portion of the schools and libraries funding used to provide broadband services to schools is recovered from broadband end users (including cable modems, broadband private lines, and broadband special access) with a flat "line" charge related to bandwidth.
2. The remaining portion of the universal service fund recovery amount is recovered from all carriers including wireless and CLECs through a "connections" charge. That charge will be \$.50 per-line for residential and single line business wireline customers, \$.50 per telephone number for single number wireless customers, and \$2.00 per-line for multiple line business customers and multiple number wireless customers.
3. The remainder of the universal service fund recovery amount will be recovered from providers of interstate interexchange services through a per-minute charge measured by the terminating access minutes billed to that carrier. For interstate traffic where a carrier does not pay terminating access, it will pay a per-minute charge on its minutes of use of that traffic.
4. Collect-and-remit principles will apply to a per-minute charge. That is, IXC's will not be permitted to surcharge their customers any more than they remit to USAC.

Summary of All Providers Approach*

	Lines (000)	Per-line USF	Annual Revenue (000)	Who Contributes	Current	All Providers
Residential Lines	126,894	\$ 0.50	\$761,364	IXCs	63%	28%
Single Line Business	4,347	\$ 0.50	\$26,082	LECs	23%	39%
Wireless	118,398	\$ 0.50	\$710,388	Wireless	14%	13%
Pagers	35,220	\$ 0.25	\$105,660	Pagers	0%	2%
Multi-Line Business	56,269	\$ 2.00	\$1,350,456	Broadband	0%	18%
IXCs	284 billion Term. MOU	\$0.005 / Term. MOU	\$1,544,000			
Broadband Providers	?	***	\$1,000,000			
TOTAL			\$5,498,387			

* The data shown above are illustrative, and amounts are estimated.

** Amount would depend on the number of broadband customers and associated bandwidth.

Contributors

	Current	All Providers
Local		
LEC	Yes	Yes
Cable	Yes	Yes
IXC	Yes	Yes (Term. MOU)
CMRS	Yes	Yes
Pagers	No	Yes
Broadband		
Cable Modem	No	Yes*
xDSL	Yes	Yes*
Satellite	No	Yes*

* Amount collected only supports schools and libraries program.

Comparison of Contributors under Different Proposals

	Current	Customer Connection	IXC Account	All Providers
Local				
LEC	Yes	Yes	Yes	Yes
Cable	Yes	Yes	Yes	Yes
IXC	Yes	Yes*	Yes	Yes(MOU)
CMRS	Yes	Yes	Yes	Yes
Pagers	No	Yes	Yes	Yes
Broadband				
Cable Modem	No	**	**	Yes (S&L)
xDSL	Yes	**	**	Yes (S&L)
Satellite	No	**	**	Yes (S&L)

* Private lines only.

** Depends upon the FCC's conclusion regarding the universal service obligation of broadband providers (FCC 02-42).

Comparison of Effects on Residential Customers*

	Current	Customer Connection	IXC Account	All Providers
Local				
LEC	Revenue	\$1.00	\$.75	\$.50
Cable	Revenue	\$1.00	\$.75	\$.50
IXC	Revenue	0	\$.50**	0***
CMRS	Safe Harbor	\$1.00	\$1.00	\$.50
Pagers	Safe Harbor	\$.25	\$.25	\$.25
Broadband				
Cable Modem	N/A	****	****	?*****
xDSL	Revenue	****	****	?*****
Satellite	N/A	****	****	?*****

* The per-line charges shown above are illustrative, and amounts are estimated.

** Per presubscribed account.

*** \$.005 terminating minutes of use would be assessed on interstate interexchange providers.

**** Depends upon the FCC's conclusion regarding the universal service obligation of broadband providers (FCC 02-42).

***** Amount would depend on the number of broadband customers and associated bandwidth.